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*Orange County
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*Local Transportation
Authority*

*Service Authority for
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*Consolidated Transportation
Service Agency*

*Congestion Management
Agency*

*Service Authority for
Abandoned Vehicles*

January 19, 2016

Ms. Lucetta Dunn
Chair
California Transportation Commission
1120 N Street, MS-52
Sacramento, CA 95814

Subject: Comments on Draft Guidelines for Toll Facility Project Applications

Dear Chair Dunn,

The Orange County Transportation Authority (OCTA) Board of Directors appreciates the opportunity to offer comments on the Draft Guidelines for Toll Facility Project Applications, as required by AB 194 (Chapter 687, Statutes of 2015). The passage of AB 194 provided a framework for implementing future toll facilities that both allows for operating discretion to the agency assuming the financial risk for the facility, and provides broad policy goals for all facilities.

OCTA is currently undertaking one of the largest, most complex transportation projects in the state, a \$1.7 billion project along Interstate 405, which will add one general purpose lane in each direction, and a two-lane express lane facility, and allow for numerous bridge and arterial improvements. When finished, the project will provide multiple corridor improvements, including improved travel times and increased mobility options. This project is almost exclusively to be funded by Orange County's local sales tax measure, Measure M2.

The guidelines for implanting AB 194 will be critical to ensure that we can deliver the totality of this project, including the express lane facility, on budget and on time, while also protecting local control over the management, operations, and decision making of the express lane facility. The guidelines should, therefore, be drafted in a manner that allows for a streamlined application process consistent with AB 194, flexibility for different types of projects that may be put forward, and with room for deference to the lead agency that is taking the financial risk for the facility.

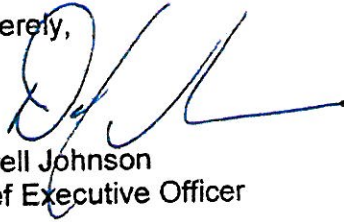
The initial draft guidelines include some provisions consistent with these objectives, including efforts to provide for an expedited schedule for approval of a facility and language recognizing the complexity of developing a funding plan. However, there are areas where improvement and clarification are needed. This includes the need for further discretion to the lead agency related to expenditure plan development and demonstration of community support, and additional flexibility in demonstrating

Ms. Lucetta Dunn
January 19, 2016
Page 2

cooperation with the California Department of Transportation that recognizes the stage of project development. A complete list of comments from OCTA is to this letter.

OCTA appreciates the time and effort the California Transportation Commission (CTC) staff has made early on to review the key objectives for these guidelines. Going forward, OCTA hopes to continue discussions with the CTC, and develop collaborative solutions that will allow successful implementation of this critical legislation. If you or your staff have any questions regarding OCTA's comments on the draft toll guidelines, please contact Kristin Essner, Principal Government Relations Representative, at (714) 560-5754.

Sincerely,

A handwritten signature in blue ink, appearing to be 'DJ', with a long horizontal stroke extending to the right.

Darrell Johnson
Chief Executive Officer

DJ:ke
Attachment

c: Members, California Transportation Commission
Will Kempton, Executive Director, California Transportation Commission
Platinum Advisors, LLC

Orange County Transportation Authority Comments on Draft Guidelines for Toll Facility Project Applications

Application Process

1. It would be helpful to also have a draft application template to see how the guidelines will specifically be used.
2. On page 2 of the guidelines, when discussing the timing of the guidelines, the term "conceptual application" and "comprehensive toll facility application" are both used. Does this mean there will be two stages to the application process? We would urge that only one application be submitted, and that upon California Transportation Commission (CTC) review, if the application appears to present compliance/completeness issues, then the CTC can work with the applicant to address the issues. Otherwise, this could lead to timing issues in having the applications approved.

Reimbursement Requirement

3. The language related to requiring a reimbursement agreement to be completed is good, allowing some predictability to this requirement. However, the guidelines seem to go beyond the scope of what is needed in this section, including requiring reimbursement of indirect costs. There are restrictions on the use of state and federal funding for such purposes which could complicate how reimbursement will occur, with not all local agencies having local dollars for this purpose. In addition, it is unclear how we determine the need and costs associated with outside consultants. The guidelines should be simplified to defer to a reimbursement agreement mutually agreed to between the lead applicant and the CTC for costs associated with processing an application.

Definition of Complete Funding Plan

4. The language recognizing that having a complete funding plan does not mean that all financing must be secured is good, and consistent with previous comments.

Expenditure Plan Development

5. Appreciate language in guidelines deferring to the regional transportation agency's (RTA) Board approval of the expenditure plan, consistent with AB 194 (Chapter 687, Statutes of 2015).

Supporting Application Information

Overall, this section includes multiple criteria that go beyond the scope of what is required under AB 194. Clarity is needed on how these different criteria will be used, weighed and balanced. Focus should be on the criteria specifically required under AB 194. In some cases, answering the questions will prove difficult due to the newness of this program. In other cases, more deference should be given to the local agency's Board in addressing various goals. Specific issues include the following:

Orange County Transportation Authority Comments on Draft Guidelines for Toll Facility
Project Applications

6. In demonstrating evidence of cooperation between the RTA and Caltrans (page 3-4), more flexibility should be granted pending the stage of project implementation. For instance, a record of decision for a final environmental document should suffice to demonstrate the RTA and Caltrans both are both cooperating in pursuing the project alternative.

7. While there is no direct objection to a final project initiation document (PID) being submitted, the PID may not provide the full scope of the project. For agencies that may be later in the project planning processing, an option should be provided for the applicant to also submit the final environmental document to supplement the information contained in the PID.

8. In demonstrating the corridor improvement benefits (page 4), the terms "compelling evidence" and "significantly improve" appear to go above and beyond the requirements of AB 194, imposing a heightened standard on each project. It is unclear why this is necessary.

9. In analyzing the cost estimates, with the limited toll facilities in existence, it is unclear how an agency determines that the cost of a specific facility is reasonable in comparison to others. This question also does not account for the different approval mechanisms used for past facilities that may have allowed for grant funding or private sector contributions. Moreover, if a project is being funded almost completely by local funds, this question may not be as relevant.

10. Requesting information about a RTA's expenditure plan prior to that agency's Board having a discussion on the matter appears to be preemptive and may interfere with the Board's discretion on the matter. CTC review of a regional agency's process is not required under AB 194, and instead, the statute specifically defers to the Board of Directors for that regional agency. In almost all cases, a Board of Directors will likely not have a discussion about an expenditure plan until after approval of the facility by the CTC.

11. In demonstrating consistency with existing plans (page 5), the question should be about the consistency of the project with the Regional Transportation plan, and potentially the Long Range Transportation Plan. The statute's focus is on the RTP, and not local plans. It is also unclear what constitutes a "relevant city or county comprehensive plan."

12. In considering other impacts, can an applicant defer to an environmental document, or is this question asking that new analysis be conducted? If the latter, that will create additional delay in the application process,

13. In demonstrating community/stakeholder support, this is best accomplished through the community hearing process required under AB 194. The guidelines seem to suggest it will be required of the applicant to submit support comments of every local jurisdiction impacted by the project, which will be incredibly burdensome on applicants. This process was already engaged in as part of the environmental process conducted by the RTA and

Orange County Transportation Authority Comments on Draft Guidelines for Toll Facility
Project Applications

Caltrans, and is best handled at the local level where the agencies can more immediately respond to direct comments.

Reporting Requirements

14. In the reports to the CTC on the progress of the project, it is unclear how long the reporting requirement will be enforced. Does CTC anticipate oversight over the actual operations of the facility?